D.B. Civil Special Appeal No.126/2006

Smt. Bardibai & Ors.
Vs.
Chandra Prakash & Anr.

Date of Judgment :: 08-08-2006

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Manish Pitaliya, for the appellants.

This special appeal is directed against the order of the learned Single Judge dismissing the misc. appeal of the appellant as time barred. The learned Judge noticed that whereas certified copy of the judgment had been received on 11.9.2002, the appeal was filed on 17.1.2003. We looked into facts of the case to find out whether any prima facie case is made out to entertain the appeal.

By the impugned award the claims Tribunal determined the income of the deceased as Rs.1350/- and his age as 55 years and accordingly applying the multiplier of 8 determined the compensation at Rs.1,16,400/-. No evidence was led on behalf of the claimants on the point of income. The wife of the deceased made bald claim that the deceased was both agriculturist and tractor driver but no document was filed to show that he had held any agricultural land. Counsel stated that the Tribunal applied wrong

multiplier. From para 20 of the judgment, it appears that the Tribunal considered the age of deceased and on the basis of materials on record came to the conclusion that he was 55 years of age at the time of his accident. As per the schedule, in case of age being 55 years or more, multiplier of 8 is to be applied. In the facts and circumstances, we do not think that the compensation determined by the claims Tribunal was inadequate. We therefore do not find any prima facie case to entertain the appeal.

The appeal is dismissed.

[MOHD. RAFIQ],J. [S.N.JHA],CJ.

Praveen